

Message

From: Marcy, Ken [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AF47C9A01A4340379E366A47FBBA5057-MARCY, KEN]
Sent: 5/29/2020 2:22:35 PM
To: Mednick, Richard [Mednick.Richard@epa.gov]
Subject: RE: Delegation of NPL state concurrence to Ecology/DEQ?

Great! Thanks!

KEN MARCY | NATIONAL PRIORITIES LIST COORDINATOR | SITE ASSESSMENT MANAGER
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MARCY.KEN@EPA.GOV

From: Mednick, Richard <Mednick.Richard@epa.gov>
Sent: Friday, May 29, 2020 7:22 AM
To: Marcy, Ken <Marcy.Ken@epa.gov>
Subject: RE: Delegation of NPL state concurrence to Ecology/DEQ?

Hi Ken,

I think that this law serves our purpose. Under CERCLA 9605(a)(8)(B), states may annually submit sites to EPA for proposed inclusion on the NPL. The Oregon statute cited below provides DEQ with the authority to make such submissions on behalf of the State to EPA, which DEQ has in turn done for Bradford Island in the October letter to EPA.

Richard

Richard Mednick
Associate Regional Counsel
Regional Judicial Officer
U.S. EPA | Region 10
1200 Sixth Avenue
Suite 155, M/S 11 C07
Seattle, WA 98101
(206) 553-1797

From: Marcy, Ken <Marcy.Ken@epa.gov>
Sent: Thursday, May 28, 2020 5:38 PM
To: Mednick, Richard <Mednick.Richard@epa.gov>
Subject: FW: Delegation of NPL state concurrence to Ecology/DEQ?

Hi Richard,

I'm just confirming with ODEQ and Ecology that they have delegation from the governor's office for concurrence on NPL listing. Kevin Parrett provided the following legal reference highlighted in yellow – does this work? I don't think they have a letter or anything official showing delegation – I don't really need it, I just need their verification that they have the authority which I think the email, and historical precedent provide. Let me know your thoughts. Thanks!

This is for Bradford by the way, I'm trying to avoid having to get a letter from the Governor since authority is delegated and we already have a letter from the director asking us to list..

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From: SEIDEL Paul <Paul.SEIDEL@state.or.us>
Sent: Thursday, May 28, 2020 4:10 PM
To: Marcy, Ken <Marcy.Ken@epa.gov>
Subject: FW: Delegation of NPL state concurrence to Ecology/DEQ?

Ken, do you think this statutory language would be sufficient?

From: PARRETT Kevin <Parrett.Kevin@deg.state.or.us>
Sent: Thursday, May 28, 2020 4:08 PM
To: SEIDEL Paul <SEIDEL.Paul@deg.state.or.us>; DECONCINI Nina <DECONCINI.Nina@deg.state.or.us>; EMER Lydia <EMER.Lydia@deg.state.or.us>; ONEIL Stacey <Oneil.Stacey@deg.state.or.us>; HARMON Gretchen <HARMON.Gretchen@deg.state.or.us>
Subject: RE: Delegation of NPL state concurrence to Ecology/DEQ?

I don't think a letter from the Gov is needed unless she has a special interest. As stated in my earlier email to Jim, ORS 465.210 appears to provide this authority.

465.210 Authority of department for removal or remedial action. (1) In addition to any other authority granted by law, the Department of Environmental Quality may:

- (a) Undertake independently, in cooperation with others or by contract, investigations, studies, sampling, monitoring, assessments, surveying, testing, analyzing, planning, inspecting, training, engineering, design, construction, operation, maintenance and any other activity necessary to conduct removal or remedial action and to carry out the provisions of ORS 465.200 to 465.545 and 465.900; and
- (b) Recover the state's remedial action costs.

(2) The Environmental Quality Commission and the department may participate in or conduct activities pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act, as amended, P.L. 96-510 and P.L. 99-499, and the corrective action provisions of Subtitle I of the federal Solid Waste Disposal Act, as amended, P.L. 96-482 and P.L. 98-616. Such participation may include, but need not be limited to, entering into a cooperative agreement with the United States Environmental Protection Agency.

(3) Nothing in ORS 465.200 to 465.545 and 465.900 shall restrict the State of Oregon from participating in or conducting activities pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act, as amended, P.L. 96-510 and P.L. 99-499. [Formerly 466.550]

-Kevin Parrett

From: SEIDEL Paul <SEIDEL.Paul@deg.state.or.us>
Sent: Thursday, May 28, 2020 1:36 PM
To: DECONCINI Nina <DECONCINI.Nina@deg.state.or.us>; EMER Lydia <EMER.Lydia@deg.state.or.us>; ONEIL Stacey <Oneil.Stacey@deg.state.or.us>; HARMON Gretchen <HARMON.Gretchen@deg.state.or.us>
Cc: PARRETT Kevin <Parrett.Kevin@deg.state.or.us>
Subject: FW: Delegation of NPL state concurrence to Ecology/DEQ?

Keeping you in the loop so Richard is not surprised by an unexpected email.

Paul

From: MCKENNA Jim J * GOV <Jim.J.MCKENNA@oregon.gov>
Sent: Thursday, May 28, 2020 1:29 PM
To: SEIDEL Paul <Paul.SEIDEL@state.or.us>
Subject: Re: Delegation of NPL state concurrence to Ecology/DEQ?

Hi Paul. I will connect with the Governor's Chief of Staff today to see if we can get the Governor to send an email to Richard Whitman that provides the delegated authority. I'll keep you posted.

Thanks,
Jim McKenna
Governor Brown's Natural Resource Office
jim.j.mckenna@oregon.gov
503-510-9349

On May 28, 2020, at 12:55 PM, SEIDEL Paul <Paul.SEIDEL@state.or.us> wrote:

Jim, sorry to keep after you on this item. Is there any specific information I can pass to EPA Region X?

Thanks,
Paul
Manager, Northwest Region Cleanup Program
Oregon Department of Environmental Quality
700 NE Multnomah Street, Suite 600
Portland, OR 97232
503-229-5614

From: Marcy, Ken <Marcy.Ken@epa.gov>
Sent: Thursday, May 28, 2020 12:52 PM
To: SEIDEL Paul <Paul.SEIDEL@state.or.us>; SCHWARZ Bob <Bob.SCHWARZ@state.or.us>
Subject: RE: Delegation of NPL state concurrence to Ecology/DEQ?

Hi Paul – hope you're doing well! Just checking in on any correspondence with the governor's office on the Bradford NPL listing. DEQ has the delegation to concur and we have that in the October letter, just an email from you confirming that the Governor's office is in the loop to some extent would be great. Thanks for your help! Ken

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From: SEIDEL Paul <Paul.SEIDEL@state.or.us>
Sent: Tuesday, May 12, 2020 11:12 AM

To: Marcy, Ken <Marcy.Ken@epa.gov>; SCHWARZ Bob <Bob.SCHWARZ@state.or.us>
Cc: SEIDEL Paul <Paul.SEIDEL@state.or.us>
Subject: RE: Delegation of NPL state concurrence to Ecology/DEQ?

I'll do some homework and get back to you.

From: Marcy, Ken <Marcy.Ken@epa.gov>
Sent: Tuesday, May 12, 2020 11:11 AM
To: SCHWARZ Bob <Bob.SCHWARZ@state.or.us>
Cc: SEIDEL Paul <Paul.SEIDEL@state.or.us>
Subject: RE: Delegation of NPL state concurrence to Ecology/DEQ?

Thanks Bob, Paul – is there any correspondence with the governor's office about this – we need to show that the governor is in the loop even if DEQ has delegation. I'm thinking even an email from Paul describing how DEQ has coordinated with the Gs office would suffice. Thanks!

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From: SCHWARZ Bob <Bob.SCHWARZ@state.or.us>
Sent: Tuesday, May 12, 2020 11:09 AM
To: Marcy, Ken <Marcy.Ken@epa.gov>
Cc: SCHWARZ Bob <Bob.SCHWARZ@state.or.us>; SEIDEL Paul <Paul.SEIDEL@state.or.us>
Subject: FW: Delegation of NPL state concurrence to Ecology/DEQ?

Hi Ken,
Answer to your question.
Bob

From: SEIDEL Paul
Sent: Tuesday, May 12, 2020 11:08 AM
To: SCHWARZ Bob <SCHWARZ.Bob@deq.state.or.us>
Cc: PARRETT Kevin <Parrett.Kevin@deq.state.or.us>; DECONCINI Nina <DECONCINI.Nina@deq.state.or.us>
Subject: RE: Delegation of NPL state concurrence to Ecology/DEQ?

Yes. This is delegated.

From: SCHWARZ Bob <SCHWARZ.Bob@deq.state.or.us>
Sent: Tuesday, May 12, 2020 11:07 AM
To: SEIDEL Paul <SEIDEL.Paul@deq.state.or.us>
Cc: SCHWARZ Bob <SCHWARZ.Bob@deq.state.or.us>
Subject: FW: Delegation of NPL state concurrence to Ecology/DEQ?

Hi Paul,
Who would know if the Governor has delegated authority to the DEQ Director for concurrence with an NPL listing?
Bob

From: Marcy, Ken <Marcy.Ken@epa.gov>
Sent: Tuesday, May 12, 2020 11:04 AM
To: rlaw461@ecy.wa.gov; SCHWARZ Bob <Bob.SCHWARZ@state.or.us>
Subject: Delegation of NPL state concurrence to Ecology/DEQ?

Hi Rebecca, Bob,

Just a quick update on the Bradford Island NPL listing. The listing rule is scheduled now to go out in early September. The Administrator is being briefed on June 2, which will hopefully give the green light to proceed with Bradford Island. If that's the case, we need to confirm state (Washington and Oregon) concurrence with the listing. Currently we have the letter from both directors of both Ecology and DEQ requesting that the site be placed on the NPL (Oct 2019), but I need to confirm that the governors have delegated authority for concurrence to the agencies. **Can you find out for me if this delegation exists and is in force?** If it is, then we can use the existing letter as long as we have confirmation that the governors' offices have been informed.

Thanks in advance for your help! Ken

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